

SENATE BILL REPORT

HB 1775

As Reported By Senate Committee On:
Judiciary, February 29, 2008

Title: An act relating to crimes against livestock belonging to another person.

Brief Description: Regarding crimes against livestock belonging to another person.

Sponsors: Representatives Hinkle, Pettigrew, Kretz, Grant, Armstrong, Pearson, Strow, Sump, Warnick and Blake.

Brief History: Passed House: 2/28/07, 95-2; 2/15/08, 94-0

Committee Activity: Judiciary: 2/29/08 [DPA]; 2/29/08.

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended.

Signed by Senators Kline, Chair; Tom, Vice Chair; McCaslin, Ranking Minority Member; Carrell, Hargrove, McDermott, Roach and Weinstein.

Staff: Robert Kay (786-7405)

Background: Criminal code, related but separate provisions, may apply when a person harms a horse or cattle. These include the crimes of animal cruelty, theft of livestock, and malicious mischief.

A person is guilty of animal cruelty in the first degree when, except as authorized in law, that person intentionally: (1) inflicts substantial pain on; (2) causes physical injury to; or (3) kills an animal by a means causing undue suffering. "Animal" in this context means every creature other than a human being. Animal cruelty in the first degree is a class C felony and is unranked, except for animal cruelty involving sexual conduct. Under the Sentencing Reform Act, the standard sentence range for an unranked felony is zero to 12 months.

A person is guilty of the crime of theft of livestock if, with the intent to deprive or defraud the lawful owner thereof, the person willfully takes, leads, or transports away, conceals, withholds, slaughters, or otherwise appropriates an animal. If a person commits the theft with the intent to sell or exchange the animal, the crime committed is theft of livestock first degree. If the person commits the theft without the intent to sell or exchange the animal, and for the person's own use, the crime committed is theft of livestock second degree. The following animals are considered livestock for the purpose of the crime of theft of livestock: horse, mule, cow, heifer, bull, steer, swine, and sheep.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Theft of livestock first degree is a class B felony, ranked at seriousness level IV, and carries a standard sentence range of three to nine months for a person with no prior offenses. Theft of livestock second degree is a class C felony, ranked at seriousness level III, and carries a standard range of one to three months for a person with no prior offenses. In addition, the court must order a person convicted of theft of livestock to pay a minimum fine of \$2,000 for each animal killed or possessed.

A person who suffers damage to livestock from acts of cruelty to, or theft of, the livestock may bring a civil action against the perpetrator for treble damages and attorney fees.

A person is guilty of malicious mischief in the first degree if that person knowingly and maliciously causes physical damage to the property of another in an amount exceeding \$1,500. Malicious mischief in the first degree is a class B felony, ranked at seriousness level II under the Sentencing Reform Act. This offense carries a standard sentence range of zero to 90 days for a first time offender.

Summary of Bill (Recommended Amendments): A new crime of maliciously killing or causing substantial bodily harm to livestock belonging to another person is created. A person commits this crime if the person, with malice, kills or causes substantial bodily harm to livestock belonging to another person, without consent of the owner. It is an unranked class C felony, carrying a standard sentence of zero to 12 months in jail. The definition of the crime contains an exception for individuals defined as "slaughterers" or "packers" if they conduct their activities consistent with and in furtherance of their responsibilities in the regular course of employment. The same civil action for treble damages and attorney fees that is available to a person who suffers damage from cruelty to, or theft of, livestock is also available to a person whose livestock is damaged as a result of the commission of this crime.

EFFECT OF CHANGES MADE BY JUDICIARY COMMITTEE (Recommended Amendments): A mental state element of malice is added to the definition of the crime in order to clarify the intent of the drafters that persons killing or substantially harming livestock with malice as defined in RCW 9A.04.110 are guilty of the crime. The crime makes it unlawful to kill or substantially harm any livestock, as that term is defined in RCW 9A.56.080, not just a horse or cattle. The crime is an unranked Class C felony. Individuals defined as "slaughterers" or "packers" are only exempt from the penalties in section 1 of this bill if they conduct activities consistent with and in furtherance of their responsibilities in the regular course of employment.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: Only those killing or causing substantial bodily harm to livestock who do so with malice would be guilty of this crime. Therefore, a rancher or any other person who engaged in a mercy killing of another person's livestock animal without the consent of the owner, where the animal had been critically injured and was suffering, would not be guilty of this crime.

Persons Testifying: PRO: Jack Field, Washington Cattlemen's Association.